



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Stuart Serkin et al.
Serial No. : 09/401,873
Filed : September 23, 1999
Title : QUOTE/ORDER PROCESSING IN ELECTRONIC MARKET SYSTEM

Art Unit : 3627
Examiner : Bryan J. Jaketic

Mail Stop Appeal Brief - Patents

Commissioner for Patents
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REPLY BRIEF PURSUANT TO 37 C.F.R. 1.193(b)(1)

GROUP 3600

Appellant responds to the argument in the Examiner's Answer as follows.

Group I (claims 1, 4, 7-12)

The examiner insinuates that a broad interpretation of Korhammer may meet the limitation of the order routing/execution manager. This is incorrect and the examiner has already conceded this position during prosecution.¹ However, in conceding this position, the examiner has consistently mischaracterized the limitations of the claims.²

Rai's teaches a network hub as a single access point (Col. 47 line 45 to Col. 48, line 5). The examiner has failed to set forth any reasonable motivation to combine teachings of a network hub with order processing teachings in Korhammer. The examiner contends that the

¹ (See the office action of 6-19-02, page 5," Korhammer et al. do not disclose a sole point of execution." See also final action of October 27, 2003 page 4 "Applicant argues that Korhammer et al do not teach that all received orders are provided a single point for delivery of executions. The examiner concedes this point.") See the examiner's Answer page 3.

² Claim 1 recited throughout the period in question "an order routing/execution manager to provide either a single point delivery of executions or routing of orders in accordance with parameters of the order." Appellant has not argued claim 1 as reciting "all received orders are provided a single point for delivery of executions."

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motivation is "to provide a single delivery of executions (*Answer page 4*).” However, the examiner has not shown where the art cited or the art in general would suggest the benefit of the recited feature. It is only after an application of hindsight provided by a reading of Appellant's specification and claims does the benefits of an order routing/execution manager to provide for all orders received by the common interface either a single point delivery of executions or routing of orders in accordance with parameters of the order, become known.

Moreover, combining a network hub with Korhammer would not meet the claim limitations of a common interface, a manager process, and an order routing/execution manager. Using Rai would merely provide a common point in a network to collect network traffic, e.g., network packets. However, Appellant's invention is a facility that manages order delivery to an electronic market and an order routing/execution manager that provides a common point to deliver order executions or routing of orders for negotiation. Rai's teachings are at an entirely different level than those of Korhammer and Appellant's claims.

Assuming that a combination of Korhammer and Rai is suggested. A practical system based on the combined teachings would lead one to include a hub in a network to collect network packets destined for an electronic market. The hub could be a common connection point for various network devices on a local area network. However, such an arrangement would not affect the operation of the market, since the hub deals with packets and would not have programming to combine packets in a manner that would form the orders claimed. Further, there is no suggestion to program the hub to direct orders assembled from the packets collected by the hub to an order manager and execution manager. The hub would not have the intelligence to understand orders, since the hub is only dealing with network packets.

The examiner maintains that Rai "expressly states that a single access point structure is equivalent to a multi-channel access point." However, the equivalency mentioned by Rai deals with the network packet level not the level of the elements recited in claim 1. Accordingly, there is not any equivalency between the elements of Appellant's claim and the hub taught by Rai and the combination of Rai and Korhammer is not suggested.

Group II (claims 2 and 13)

Appellant has addressed this argument in the main brief.

Group III (claim 5)

The examiner states that: "The examiner maintains that Figures 4 and 5 depict an aggregate montage, as explained in Col. 9 lines 9-25." If the examiner is correct that Figures 4 and 5 depict an aggregate montage, which position the Appellant does not concede for the reasons given in Appellant's main brief, then by taking this position, the examiner admits that Korhammer does not teach all of the limitations of claim 5. Claim 5 recites a montage manager to display quotes ... in an aggregate montage or a current quote montage consistent with parameters specified in the quotes. As interpreted by the examiner, Korhammer does not teach a current quote montage, since the examiner contends that Korhammer in Figures 4 and 5 depicts an aggregate montage and Korhammer also could not teach the display of the quotes is governed by the parameters specified in the quotes. Either one of the examiner's constructions of Korhammer fails to meet the limitation of Appellant's claims.

Group IV (claims 14 and 15)

The examiner takes an unsupportable position regarding claim 14. The examiner contends that claim 14 employs "conditional language" and "therefore does not affirmatively claim an order type." The examiner seems to argue that the limitation is optional and therefore the examiner does not need to address the limitation (See Answer page 5 "Appellant's argument is therefore moot.").

Claim 14 does employ conditional language, but claim 14 does not claim "an order type." Rather, claim 14 claims a montage manager. The montage manager specifies a condition that exists in the montage manager for which the montage manager tests orders for the purpose of determining whether or not to display the orders in a montage. However, nothing in claim 14 makes the limitation optional. The limitation is present in the montage manager to display quotes received *** if the quotes are attributable consistent with parameters specified in the quotes.

Further, had the examiner been confused over whether the limitation was optional or not a proper rejection would have been a rejection under 35 U.S.C. 112, second paragraph. This last moment shift in position by examiner, has denied Appellant a reasonable opportunity to address the rejection.

Group V (claim 16)

Appellant has addressed this argument in the main brief.

Group VI (claims 17-19 and 25)

Appellant has addressed this argument in the main brief and in the argument above for Group I.

Group VII (claims 20 and 22-24)

The examiner contends that Korhammer teaches: "an aggregate montage that displays quotes received consistent with attribution parameters." However, the examiner has never pointed to a single teaching in Korhammer that corresponds to the attribution parameters. Rather, every quote/order displayed in Korhammer is attributed to a market participant and every quote/order received is displayed (See Col. 9 lines 12-14: "Screen 280 shows not only NASDAQ Level II data but also the full order book for the following three ECNs: Instinet, Island and Strike.")

Claim 20 recites "displaying in an aggregate montage indicators of an aggregate of the quotes received and displaying those of the received quotes that represent attributable interest in a quote montage consistent with attribution parameters specified in the multiple quotes." Claim 20 thus requires several features; indicators of an aggregate of the quotes and display of the quotes according to whether the attribution parameter specified in the quote indicates the quote is displayable or non-displayable interest in the quote montage. Korhammer does not teach these features of claim 20.

Group VIII (claims 21 and 26-29)

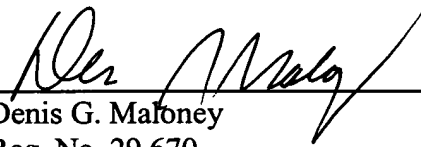
Appellant has addressed this argument in the main brief and in the argument above for Groups III and VII.

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed. An oral hearing is requested.

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Respectfully submitted,

Date: 9/13/04



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